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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,831	08/12/2005	Jean-Marie Gatto	CYBS5819	2701
86915	7590	05/27/2010		
Young Law Firm, P.C. 4370 Alpine Road, Suite 106 Portola Valley, CA 94028			EXAMINER PIERCE, DAMON JOSEPH	
			ART UNIT 3714	PAPER NUMBER
			MAIL DATE 05/27/2010	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/520,831

**Applicant(s)**

GATTO ET AL.

**Examiner**

DAMON PIERCE

**Art Unit**

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 March 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 25-36, 40-43, 47-49, 51-66, 68-89, 94-103, 105-120 and 122-133 is/are pending in the application.
- 4a) Of the above claim(s) 47-49, 51-66, 68-79, 101-103, 105-120 and 122-133 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 25-36, 40-43, 80-89, and 94-100 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 1/5/05 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. The examiner acknowledges the amendments of claims filed on 3/6/10. Currently, claims 1-24, 37-39, 44-46, 50, 67, 90-93, 104, 121, and 134-142 are cancelled. Thus, although claims 25-36, 40-43, 47-49, 51-66, 68-89, 94-103, 105-120, and 122-133 are pending, claims 47-49, 51-66, 68-79, 101-103, 105-120 and 122-133 are withdrawn due to election, therefore, claims 25-36, 40-43, 80-89, and 94-100 are being examined on the merits.

### ***Election/Restrictions***

2. Applicant's election without traverse of Group III directed to claims 25-36 and 40-43 in the reply filed on 3/6/10 is acknowledged.

3. Applicant's election with traverse of Species 8 in the reply filed on 3/6/10 is acknowledged. The traversal is on the ground(s) that (1) the purported Species of Figs. 8, 9, 10, and 15 are believed to be more properly the subject of a restriction requirement, not a requirement for election of species; (2) independent claims 25 and 47 are independently patentable and are generic to the purported Species of 8, 9, and 10; and (3) Fig. 15 shows aspects of an embodiment only claimed in dependent claims 69, 70, 123, and 124 and should not have been identified as a purported Species. This is not found persuasive because (1) An election of species is a form of restriction requirement; (2) independent claims 25 and 47 are not generic because they do not belong to each of the species, for example, claim 25 includes "checking a code

signature" which not required in species of Fig. 15; and claim 47 includes "taking complete control of the gaming machine with the at least one driver", which is not required in species I, II, or III and (3) the fact that Fig. 15 shows aspects of an embodiment only to specific claims is not evidence of why it is not a species.

However, claims 80-89 and 94-100 also seems to be related to the elected species, thus, claims 25-36, 40-43, 80-89, and 94-100 are examined on the merits.

The requirement is still deemed proper and is therefore made FINAL.

### ***Drawings***

4. The drawings are objected to under 37 CFR 1.83(a) because they fail to show elements "406", "633" as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after

the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: "200", "214", "236", "316", "604-618", "622-624", "700", "712-720", "1034", "1036", "1052", "1100", and "1120". Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

6. The disclosure is objected to because the specification contains the following acronyms without meaning, or stating what the acronyms stands for: "FAT", "BIOS", "ROM", "PC", "QNK", "SCSI", "FAT2", "RAM", "FAT16", "FAT32", "NTFS"

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

7. Claims 28, 30-36, 41-43, 82, 84-and 89, 95-100 contains the trademarks/trade names "Microsoft's System File Protection (SFP)", "Windows File Protection (WFP)", "Microsoft Windows", "Microsoft", "Driver Signing of the Microsoft Windows", and "Driver Signing policy of Microsoft Windows". Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph.

See Ex parte Simpson, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademarks/trade names are used to identify/describe particular brands of computing applications, an operating system, and software, and, accordingly, the identification/description is indefinite.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
9. Claims 25-27, 29, 80-81, and 83 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. #5,953,502 to Helbig, Sr (Helbig) in view of US Pat. #6,327,652 to England et al (England).

Regarding claims 25, 80, Helbig discloses **a gaming machine** (col. 2, 49-65, discloses a computer system), comprising:

**at least one processor** (col. 2, 49-65, discloses a CPU, central processing unit);

**at least one data storage device** (Fig. 1, 26, 28, discloses memory devices);

a plurality of processes spawned by the at least one processor, the processes including processing logic for carrying out steps of:

**running an operating system loaded in the gaming machine** (col. 9, 64-67, discloses booting a PC's operating system);

**providing and installing a trusted verification driver in the gaming machine, the trusted verification driver being independent of the operating system** (col. 8, 57-62, discloses a trusted operator independent of the operating system);

**performing a verification of components of the operating system against a trusted reference using the trusted verification driver** (see col. 21, 47-63) and **preventing further operation of the gaming machine when the verification of the components of the operating system fails** (see col. 22, 58-67);

**at least one software module into the gaming machine** (col. 2, 49-65, discloses software);

**checking a code signature of at least one software module using the trusted verification driver** (col. 8, 57-62, discloses a trusted operator performing digital signature verification test), and

**authorizing execution of the software module in the gaming machine only if the software module is successfully verified by the trusted verification driver** (see col. 9, 58-67).

*However, Helbig fails to explicitly disclose downloading at least one software module into the gaming machine; and a downloaded software module (emphasis added).*

England discloses downloading at least one software module into the gaming machine; and a downloaded software module (col. 8, 40-65, discloses download



content). The gaming machine system of Helbig would have motivation to incorporate the teachings of England in order to update a gaming machine over a network connection.

Thus, it would have been obvious to a person of ordinary skill in the art to at the time of the invention to modify the gaming machine system of Helbig to receive the downloaded software of England in order to allow users to save the new and latest content available on the market.

26, 27, 81, England discloses wherein the running, step runs an operating system that is configured to prevent a replacement and execution of selected monitored or protected system files within the gaming machine with files that do not originate from a trusted source (see col. 15, 48-61).

29, 83, Helbig discloses wherein the operating system in the running step causes the authorizing step to authorize execution of the downloaded software module only if the downloaded software module has been code-signed with a certificate from a trusted source (see col. 8, 56-67 to col. 9, 1-10).

10. Claims 28, 30-36, 40-43, 82, 84-89, and 94-100 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. #5,953,502 to Helbig, Sr (Helbig) in view of US Pat. #6,327,652 to England et al (England) as applied to claims 25 and 80 above, and further in view of Windows File Protection and Windows (herein referred to

as WFP), Microsoft Windows 2000 Security Handbook, Chapter 6 Drivers (herein referred to as Drivers), and Applicant's Admission in instant application's specification.

Regarding claims 28, 82, Helbig fails to explicitly disclose *wherein the running step runs an operating system whose capability includes one of Microsoft's System File Protection (SFP) and Windows File Protection (WFP) of the Microsoft Windows® operating system.*

WFP explicitly discloses the claim elements of above (see pg. 1). The gaming machine system of Helbig would have motivation to incorporate the teachings of WFP in order to protect files on a gaming machine from erroneously being removed.

Thus, it would have been obvious to a person of ordinary skill in the art to at the time of the invention to modify the gaming machine system of Helbig to include the teachings of WFP in order to improve a gaming machine's system performance.

30, 31, 36, 84, 85, 88, 89, 100, Helbig fails to explicitly disclose *wherein the running step runs a Microsoft operating system that includes Software Restriction Policy, Windows File Protection and Driver Signing of the Microsoft Windows® operating system and wherein the trusted source is Microsoft.*

WFP discloses Software Restriction Policy and Windows File Protection (see pps. 1-2); and Drivers explicitly discloses Driver Signing (see pg. 11 under driver signing). The gaming machine system of Helbig would have motivation to

incorporate the teachings of WFP and Drivers in order to protect files on a gaming machine from erroneously being removed.

Thus, it would have been obvious to a person of ordinary skill in the art to at the time of the invention to modify the gaming machine system of Helbig to include the teachings of WFP and Drivers in order to improve a gaming machine's system performance.

32, 33, 34, 35, 86, 87 England discloses wherein the downloaded software module has been code-signed with a certificate from a trusted source (see col. 8, 56-67 to col. 9, 1-10).

*However, England fails to explicitly disclose setting a Driver Signing policy of the Microsoft Windows operating system to cause the authorizing step to only authorize execution of drivers that are code-signed with a certificate from one of Microsoft and a trusted source.*

Drivers discloses setting a Driver Signing policy of the Microsoft Windows operating system to cause the authorizing step to only authorize execution of drivers that are code-signed with a certificate from one of Microsoft and a trusted source (see pg. 11 under Driver Signing). The gaming machine system of Helbig combined with the teachings of England would have motivation to incorporate the teachings of Drivers in order to enhance the system's security.

Thus, it would have been obvious to a person of ordinary skill in the art to at the time of the invention to modify the gaming machine system of Helbig to include the teachings of Drivers in order to improve a gaming machine's system

performance via installing only trusted software in order to keep a system from being corrupt.

40, 41, 94, 97, Helbig discloses wherein the gaming machine includes a processing hardware that, together with the operating system in the running step (see Figs. 1 and 10).

*However, Helbig fails to explicitly disclose implements capabilities specified by the Trusted Computing Platform Alliance (TCPA).*

According to applicant's specification, Fig. 6 and pg. 2, lines 15-31, discloses Trusted Computing Platform Alliance (TCPA) is a well known in the computing art. Thus, the gaming machine system of Helbig would have motivation to use TCPA specification in order to in order to enhance the system's security.

Thus, it would have been obvious to a person of ordinary skill in the art to at the time of the invention to modify the gaming machine system of Helbig to include TCPA in order to validate the identity and integrity of software used on the system.

*42, 43, 95, 96, 98, 99, Helbig fails to explicitly disclose wherein the operating system in the running step is an operating system implementing TCPA, Software Restriction Policy, Windows File Protection and Driver Signing of the Microsoft Windows® operating system.*

WFP discloses Software Restriction Policy, System File Protection, and Windows File Protection (see pps. 1-2); Drivers explicitly discloses Driver Signing

(see pg. 11 under driver signing); and According to applicant's specification, Fig. 6 and pg. 2, lines 15-31, discloses Trusted Computing Platform Alliance (TCPA) is a well known in the computing art.

The gaming machine system of Helbig would have motivation to incorporate the teachings of WFP and Drivers in order to protect files on a gaming machine from erroneously being removed.

Thus, it would have been obvious to a person of ordinary skill in the art to at the time of the invention to modify the gaming machine system of Helbig to include the teachings of WFP and Drivers in order to improve a gaming machine's system performance.

The gaming machine system of Helbig would have motivation to use TCPA specification in order to in order to enhance the system's security.

Thus, it would have been obvious to a person of ordinary skill in the art to at the time of the invention to modify the gaming machine system of Helbig to include TCPA in order to validate the identity and integrity of software used on the system.

### ***Response to Arguments***

11. Regarding remarks to trademarks and/or trade names list in claims please see MPEP 2173.05(u).
12. Applicant's arguments with respect to claims 25-36, 40-43, 80-89, and 94-100 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **DAMON PIERCE** whose telephone number is (571)270-1997. The examiner can normally be reached on 8AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on 571-272-4430. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

15. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dmitry. Suhol/  
Supervisory Patent Examiner, Art  
Unit 3714

DJP